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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,544	10/01/2003	William Shaw	H2OG001USO	3998

7590 08/22/2005

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary



Application No.

10/676,544

Applicant(s)

SHAW, WILLIAM

Examiner

Robert M. Fetsuga

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,17-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 2 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/01/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's election with traverse of Group I in the reply filed on May 17, 2005 is acknowledged. The traversal is on the ground(s) that "all claims are directed to a single distinct invention". This is not found persuasive because claims 1 and 17 and claim 9 appear distinct as set forth in the previous Office action. Otherwise, claims 1 and 17 and claim 9 would be redundant.

The requirement is still deemed proper and is therefore made FINAL.

2. The drawings are objected to because: reference numeral "86" (par. 0059 ln. 2) is missing; reference numerals "62" and "64" apparently should be --60-- and --62--, respectively, in Fig. 7 (par. 0056 ln. 2), reference numeral "96" apparently should be --94-- in Fig. 13 (par. 0061 ln. 2), the leader for reference numeral "62" is apparently misdirected in Figs. 15 and 16, reference numeral "144" apparently should be --142-- in Fig. 19 (par. 0074 ln. 1), reference numeral "154" apparently should be --134-- in Fig. 20 (par. 0072 ln. 4), reference numerals "100" and "200" apparently should be --168-- in Fig. 23 (par. 0082 lns. 1 and 5), reference numeral "162" apparently should be --164-- in Fig. 26 (par. 0081 ln. 9), and reference numeral "82" designates different elements between Figs. 10 and 12.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "flush arm" set forth in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended

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drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: Paragraph 0059, line 6 and paragraph 0060, line 6, "92" denotes different elements; and paragraph 0076, line 2, "154" apparently should be --134--.

Appropriate correction is required.

4. Claims 1, 8 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "tank" is intended to be part of the claimed combination since structure of the "control system" is defined as being connected thereto (lns. 4 and 17), but no positive structural antecedent basis therefor has been defined. Claims 8 and 17 are similarly indefinite.

5. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

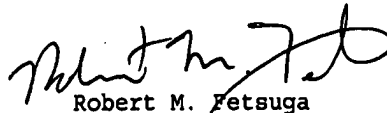
7. Claims 1, 3-8, 17-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Baron.

The Baron reference discloses a control system comprising: an inlet tube 14; a water line (col. 4 ln. 57); a tank (Fig. 13); a diverter 24,26; a control valve 18; a mechanical switch/seal arm 20 including a cam 10 and a cam engager 51; a discharge tube 72; an actuator 50; a flush arm (col. 5 lns. 10-13); and an actuator housing 60, as claimed.

8. Claims 2 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.


Robert M. Fetsuga
Primary Examiner
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